

### **REMARKS**

Claims 9-11, 13-30 and 32-40 are pending in this application.

Applicant acknowledges Examiner's indication that Applicant's submission filed on 10/09/2007 has been entered.

Claims 16, 20, 22 and 27 have been amended to more clearly describe the claimed invention.

Support for all of the current amendments can be found in the claims as filed, and in the specification as described below.

#### **Rejection under 35 USC § 112, second paragraph**

The Office has rejected claims 16, 20, 22, 27 and 32 under 35 U.S.C. §112, second paragraph, for alleged indefiniteness. Applicants respectfully traverse the rejection.

Applicants thank the Examiner for the careful attention given this application, and for pointing out that certain combination of variables in several of the structural formulas of the claims that were obviously not intended. In response, Applicant has made the following amendments to the claims:

In claim 20, Applicants have amended the claim to recite "provided that in formula 5-B,  $Y_1$  and  $Y_2$  are C and at least one of  $Y_3$  and  $Y_4$  is C;"

In claims 16, 22, and 27, Applicants have amended the claims to remove duplicate and overlapping definitions for the terms  $Y_3$  and  $Y_4$ .

With regard to claim 32, the Examiner refers to a slash in the next to last line of "step e" whose meaning is unclear. Applicants have deleted the slash from the claim.

In view of the preceding discussion and amendments, Applicant respectfully requests reconsideration and withdrawal of these rejections under 35 USC § 112, second paragraph.

#### **Double Patenting**

The Examiner has rejected claims 9-11, 13-30 and 32-34 as allegedly being unpatentable over claims 1-20 of U.S. Patent No. 7018997 (hereinafter referred to as "the '997 patent"). Applicants respectfully traverse this rejection.

Docket No.: AM100905 P1  
Application No.: 10/693,315

The '997 patent claims 6-alkylidene-penem compounds, method of treatment of bacterial infection or disease and a pharmaceutical composition. The present application contains claims to the process of preparing 6-alkylidene-penem derivatives. Applicants respectfully submit that the process of preparing the compounds of the present invention is not obvious from the claimed compounds, method of treatment, or pharmaceutical composition of the '997 patent. The present application teaches a specific process for preparing the compounds disclosed. The present application does not unjustly or improperly extend the term of the '997 patent. Based on the comments above, Applicants' respectfully request withdrawal of this rejection.


### CONCLUSION

Applicants believe that the foregoing constitutes a complete and full response to the Action of record. In view of the above amendments and remarks Applicants respectfully submit that the rejections of record have been overcome, and the pending claims are now in form of allowance. Therefore, allowance of the application on the merits is respectfully requested.

No fees are believed due. However if any fees are found to be due, the Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. 01-1425, in the name of Wyeth.

Respectfully submitted,

Date: 9/8/08

  
Michael J. Herman  
Registration No.: 51,289